(1)

Supreme Court, U.S.
FILED

No. 05-250 APR 27 2005

OFFICE OF THE CLERK
UNITED STATES SUPREME COURT

JAMES G. ROWDEN

Plaintiff-Appellant

v.

UNITED STATES OF AMERICA, et al.,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
FERNANDEZ, GRABER AND GOULD, CIRCUIT JUDGES.

PETITION FOR A WRIT OF CERTIORARI

FOR VIOLATION OF THE CONSTITUTION OF THE UNITED STATES-
DUE PROCESS AND TRIAL BY JURY

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RECEIVED
MAY 4 – 2005
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SUPREME COURT, U.S.

JAMES G. ROWDEN CASE NUMBER

vs.

UNITED STATES OF AMERICA

STATE OF CALIFORNIA

HONORABLE FRANK D. FRANCIS, JUDGE, RETIRED

HONORABLE JOHN H. DARLINGTON, JUDGE

HONORABLE J. SIMS, JUDGE

HONORABLE J. CALLAHAN, JUDGE

HONORABLE P.J. PUGLIA, JUDGE

SEVERSON AND WERSON, A PROFESSIONAL CORPORATION

COLLEEN H. MCDONALD, SB#176966

GREGORY C. NUTI, SB#114823

MICHAEL J. BERTINETTI, SB#56558

HONORABLE M. KATHLEEN BUTZ, JUDGE

MATTHEW R. EASTON, SB#160148

AL SEASTRAND, ATTORNEY

GROKENBERGER, SMITH AND COURTNEY, A PROFESSIONAL CORPORATION

DAVID M. GROKENGERGER, ATTORNEY

RAYMOND S. COURTNEY, ATTORNEY

HONORABLE JOE S. GRAY, JUDAGE

QUESTIONS FOR REVIEW
(RULE 14.1(a))

The questions and circumstances of the case is denial of Constitutional Rights of Due Process (fairness) and Trial by Jury, denying even consideration of defenses. The question is if the Supreme Court is going to contiue the perversion of the Constitution or uphold the Constitution thee has sworn to uphold, oath of office.

GROUNDS ON WHICH JURISDICTION IS INVOKED
Rule 14.1 (e) and (f)

Violating the Constitution of the United States of America.

Article III Section 2. (1) and (3) Judicial Powers and Trial by Jury.

Amendment V (1791) Due Process of Law

Amendment VII (1791) Trial by Jury

Amendment XIV (1863) Section I Due Process of Law, Equal Protection of law.

Article VI (2) and (3) Violation of the Oath of Office and Oath of Admission to Support the Constitution of the United States.

PREAMBLE: We the people of the United States in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish the Constitution for the United States of America.

Article III Section 1. The judicial power of the United States, shall extend to all Cases. The Judges both of the Supreme and inferior courts, shall hold their Offices during good Behavior. (In part) Section 2. (1) The Judicial Power shall extend to all Cases, in Law and Equity arising under this Constitution, the Laws of the United Sates and between a State or the Citizens thereof (in part). "Insubstantial" United States Court of Appeals Ninth Circuit (exh. A),

and "failure to state a cause of action" Superior Court of the State of California County of Sacramento (exh. D).

Rule 14.1 (i) Date Judgement entered (filed) 2/11/05 (exh. A), 5/05/2004 (exh. B), and 6/08/2004 (exh. C).

REASONS FOR ALLOWANCE OF WRIT
RULE 14.1 (h))

There are special and important reasons the Petition for a Writ of Certiorari should be granted. Compelling reasons are:

1. Departure by lower courts regarding the intentions of the Constitution calls for an exercise of supervisory power by this court. "Insubstantial", "no cause of action". Violating the Constitution!

2. Courts of Appeal has decided an important question of Federal Law that has not been, but should be, settled by this court.

3. This case involves principles the settlement of which is of importance to the public (the Constitution).

4. Special and important reasons of Constitutional dimensions, avoidance becomes evasion ("insubstantial, no cause of action").

5. Sound judicial discretion, insuring a commitment to the rule of law and oath to uphold the Constitution, for the protection of the people not the attorneys. Of the people, by the people and for the people.

CONCISE STATEMENT
(Rule 14.1g)

1. The United States Court of Appeals for the Ninth Circuit No. 04-16349, D.C. No. CV-03-025 93GEB, Memorandum (exhibit A): "Appellee's motions for summary affirmance are granted because the questions raised (violation of the Constitution: Due Process and Trial by July) in this appeal are so insubstantial as not to require further _____" ?

2. Judges and attorneys violating the law, their oath of office and admissions to uphold the Constitution are so insubstantial as not to require a complete answer or an answer at all?

3. This disposition is not appropriate for publication". I guess not. They would not want the public to know how the courts are preverting the Constitution and violating their oath of office.

4. INSUBSTANTIAL: Lacking substance, not of considerable value (the Constitution! Maybe not to them?). Actually not existing (might as well not); real; illusive; something without value or merit; lacking substance; not firm; the essence of what is said or written; reality as opposed to appearance. The courts answer makes the Constitution appear insubstantial!

5. Reality is the justice system perverting the Constitution

while patronizing the Constitution. Amendment V, in part, not be deprived of life, liberty or property without due process of law (fairness).

6. Amendment VII, in part, "the right of trial by jury shall be preserved".

7. Nowhere does the Constitution give immunity to Judges or attorneys which are put in place to protect the people from government (judges and attorneys). The Constitution, in regards to questions raised, is insubstantial or actually not existing? The United States District Court for the Eastern District of California, Magistrate Judge K. S. Mueller, Findings and Recommendations, stated, "The Supreme Court has held that judges acting withing the course and scope of their judicial duties are absolutely immune from liability for damages." (exhibit B). "Acting within the course and scope of their judicial duties."

8. COURSE: What is customarily or ordinarily done in the management of trade or business. Violating the law; precedent, the Constitution and oath of office, usually and normally done? It appears so.

9. SCOPE: Ultimate intention, aim or action; liberty; the range within an activity displays itself; boundry or limits. The scope,

boundry or limits should stay within the law, the Constitution, fairness, the ultimate intent, aim or action, certainly was to be fair, just and lawful!

10. JUDICIAL DUTIES: A human action which is exactly conformable to the laws which regulate us to obey them; an obligation that one has by law or contract (oath) legal and or moral obligation to conform to legal standards of reasonable conduct in light of apparent risks. There is the problem, there is no risks. If you want these practices (violating the Constitution, the law and unfairness) to continue, do nothing, they will continue to be propigated. Judges were certainly not acting within the course and scope of their judicial duties in any way, shape or form. This is customarily or ordinarily done? I pray not. Ultimate intention, aim or activity, within boundry or limits. I think not. Exactly conforming to the laws, obligation one has by law. Not. Legal and moral obligation to conform to legal standards or reasonable conduct. Their actions obviously were none of these. Each court that defended these illegal acts and make excuses for them, shirks their judicial duties and are in violation of the Constitution and their oath of office.

11. District Judge Garland E. Burrell adopted the findings

and reommendations of Magistrate Judge K. S. Mueller in full. (Exhibit C.) The court declined supplemental jurisdiction over the remaining claims under 28 U.S.C. sec. 1367 (c) (3). Walker v. Texas (2002 ED tex.) 217F Supp. 2d 776. Supplemental jurisdiction under sec 1367 does not override Constitution (3 others). Judge Gray of the Superior Court of California, county of Sacramento ruled (exhibit D), "There is no cause of action". No cause of action for violating the constitution, violating the Oath of Office, Oath of Admissions to uphold the Constitution of the United States of America, and no laws were broken? Where attorneys violated the Constitution! These six judges and attorneys (all) have violated their oaths to uphold the Constitution by denying Due Process and Trial by Jury. The brotherhood (fraternity) of lawyers takes precedent over the Constitution! Which was put in place to protect the people from government.

CONCLUSION

12. If our judicial system is to inspire a sense of confidence among the people, and ensure a commitment to the rule of law, they must at least honor their oath of office, the very ligitimacy of our system of justice depends upon continued vigilance against such Constitutional violations by the very people sworn to and appointed

to uphold and honor the Constitution of these United States of America. "Judges both of the Supreme and inferior courts shall hold their office during good behavior." Violating the law, the Constitution, their Oath of Office, and fairness is good behavior? I pray not.

13. The Declaration of Independence states, "In every stage of these Oppressions we (I) have Petitioned for Redress in the most humble terms. Our (my) repeated petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a tyrant is unfit to be the ruler of the free people." If this writ is denied, it will not be the end. I will use my First Amendment Rights and take my case to the people, which should have been allowed in the beginning. Trial by Jury, and Due Process (fairness).

14. I pray you allow Due Process and Trial by Jury as the Constitution demands.

Date: 22 June 2005

JAMES G. ROWDEN

Citizen In Pro Per

FEB 11 2005

CATHY A CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAMES G. ROWDEN,

Plaintiff – Appellant,

v.

UNITED STATES OF AMERICA; et al.,

Defendants – Appellees.

No. 04-16349

D.C. No. CV-03-02593-GEB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, District Judge, Presiding

Submitted February 7, 2005::

Before: FERNANDEX, GRABER, AND GOULD, Circuit Judges.

Appellees' motions for summary affirmance are granted because the questions raised in this appeal are so insubstantial as not to require further

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

EXHIBIT A (RULE 14.1(d))